

Message Text

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L/ARA:DGANTZ(DRAFT)

OES/OFA/FA:BHALLMAN

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O 041910Z MAY 76

FM SECSTATE WASHDC

TO AMEMBASSY NAIROBI IMMEDIATE

INFO AMEMBASSY PANAMA IMMEDIATE

C O N F I D E N T I A L STATE 108461

STADIS////////////////////////////////////

LIMDIS

E.O. 11652:GDS

TAGS:PFOR/PN

SUBJECT:YOUR REQUEST FOR BRIEFING MATERIAL ON PANAMA

TUNA BOAT SITUATION

FOR ASSISTANT SECRETARY ROGERS.

PANAMA PASS AMBASSADOR BUNKER.

1. AS REQUESTED IN TELEPHONE CONVERSATIONS WITH
THE DEPARTMENT, THE FOLLOWING BRIEFING MATERIAL IS
PROVIDED FOR YOU ON PANAMA TUNA BOAT SITUATION.

2. PANAMA SENT OUR EMBASSY A DIPLOMATIC NOTE APRIL 26
ALLEGING THAT THE US FLAG VESSEL VOYAGER HAD BEEN SEEN
FISHING FOR TUNA IN PANAMANIAN TERRITORIAL WATERS
APPROXIMATELY 45 MILES OFF THE PANAMANIAN COAST. THE
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NOTE ALLEGED THAT UPON BEING SIGHTED BY PANAMANIAN

PATROL BOATS, THE VOYAGER SAILED INTO CANAL ZONE WATERS, OVER WHICH THE UNITED STATES EXERCISES JURISDICTION. THE GOP REQUESTED THAT THE UNITED STATES TURN THE VESSEL OVER TO PANAMANIAN AUTHORITIES FOR PROSECUTION.

3. ON THE SAME DATE, THE OWNERS OF A SECOND US FLAG VESSEL,

THE BOLD PRODUCER, INFORMED THE DEPARTMENT THAT A PANAMANIAN AIRCRAFT HAD FIRED A WARNING SHOT AT THE VESSEL WHILE IT WAS WITHIN 200-MILE PANAMANIAN CLAIMED ZONE. THIS ALLEGED SHOOTING INCIDENT HAS NOT BEEN CONFIRMED.

4. THE DEPARTMENT INSTRUCTED AMBASSADOR JORDEN TO REMIND HIGH GOP OFFICIALS OF AN ASSURANCE WHICH TORRIJOS GAVE JORDEN FOLLOWING A TUNA BOAT SEIZURE IN 1974 THAT THERE WOULD BE NO FURTHER SUCH INCIDENTS. IN ADDITION, JORDEN WAS TO POINT OUT THE NEGATIVE EFFECT WHICH ANY INCIDENTS OR SEIZURES WOULD HAVE ON THE CANAL NEGOTIATIONS, AND THE DIFFICULTY OF WAIVING FOREIGN MILITARY SALES AND FOREIGN ASSISTANCE SANCTIONS BECAUSE OF THE PREVIOUS WAIVER BASED ON GOP ASSURANCES. HE WAS ALSO TO NOTE THAT OUR INFORMATION WAS THAT THE VESSEL WAS TRANSITING THE AREA AND WAS NOT FISHING.

5. JORDEN SAW FOREIGN MINISTER BOYD APRIL 28 AND BOYD AGREED TO CONVEY POINTS TO HIGHER AUTHORITY BUT IT WAS CLEAR THAT HE WAS NOT IN A DECISION MAKING ROLE ON THIS ISSUE.

6. IN A SECOND DIPLOMATIC NOTE APRIL 30, THE GOP REQUESTED THAT THE EMBASSY INFORM FOUR US TUNA VESSELS OF THE CHARGES PENDING AGAINST THEM. AMBASSADOR JORDEN ORALLY INFORMED FOREIGN MINISTER BOYD THAT WE DO NOT ACCEPT PANAMANIAN JURISDICTION BEYOND 12 MILE LIMIT, AND THUS COULD NOT PASS THE DOCUMENTS TO THE SHIPS OWNERS OR AGENTS. TWO OF THE VESSELS NAMED IN THE NOTE (VOYAGER AND KALI) HAVE TRANSITED THE CANAL AND ARE NOW ANCHORED AT CRISTOBAL. THE OTHER TWO (ONE OF WHICH IS THE BOLD PRODUCER NAMED ABOVE) ARE STILL FISHING SOMEWHERE OFF PANAMA. WE SUSPECT THAT SEVERAL OTHER US TUNA VESSELS ARE IN THE CONFIDENTIAL

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AREA BUT HAVE NO SPECIFIC INFORMATION.

7. ON THE EVENING BEFORE HIS DEPARTURE FOR PANAMA MAY 1 FOR THE CURRENT ROUND OF CANAL NEGOTIATIONS, MINISTER BELL SPOKE BY PHONE WITH AMBASSADOR GONZALEZ-REVILLA. IT WAS AGREED THAT THE U.S- WOULD SEND A HIGH LEVEL TEAM TO PANAMA FOR NEGOTIATIONS THIS WEEK AND THAT THERE WOULD BE NO "INCIDENTS" IN THE MEANTIME, PROVIDED KALI AND VOYAGER

DID NOT ATTEMPT TO LEAVE CANAL ZONE WATERS. AT ABOUT SAME TIME, GN PATROL BOATS STARTED NIGHT PATROLS IN CANAL ZONE WATERS TO PREVENT U.S. BOATS FROM LEAVING. EMBASSY HAS SENT PROTEST ON THIS MATTER.

8. AMBASSADOR RIDGWAY HAS SU0SEQUENTLY SPOKEN WITH JORDEN AND IT HAS BEEN AGREED THAT THERE IS NOTHING TO NEGOTIATE WITH PANAMA, THAT THE EMBASSY CAN REPRESENT OUR INTERESTS AND THAT A HIGH LEVEL TEAM WOULD RAISE FALSE EXPECTATIONS.
9. AMBASSADOR JORDEN HAS POSTPONED HIS HOME LEAVE (HE WAS SCHEDULED TO LEAVE MAY 2) PENDING RESOLUTION OF THIS MATTER.

10. TORRIJOS HAS AVOIDED RESPONDING TO JORDEN'S NUMEROUS ER BELL HAS REPORTED FROM CONTADORA REQUESTS FOR AN APPOINTMENT. MINISTER BELL HAS REPORTED FROM CONTADORA THAT THE PANAMANIAN HAVE DECIDED NOT TO CONFISCATE THE CATCH, NOR TO IMPOSE FINES, BUT MERELY TO LEVY A ONE TIME QUOTE LICENSE FEE OF DOLS 100,000 UNQUOTE. WE BELIEVE THAT THIS IS SO FAR OUT OF THE RANGE OF A NORMAL LICENSE FEE (PANAMANIAN LAW PROVIDES FEES UP TO DOLS 10,000 FOR A FISHING LICENSE) THAT DEPENDING ON THE CIRCUMSTANCES OF ITS COLLECTION IT MIGHT WELL BE CONSIDERED AS TANTAMOUNT TO A FINE UNDER THE FOREIGN MILITARY SALES ACT, THUS MANDATING A SUSPENSION, AS WELL AS TRIGGER REIMBURSEMENTS AND AID DEDUCTIONS UNDER THE FISHERMAN'S PROTECTIVE ACT. INDUSTRY REACTION IS THAT LICENSE FEE FAR TOO HIGH AND THUS UNACCEPTABLE.

11. THE PRESENT SITUATION: OWNERS OF KALI AND VOYAGER HAVE INSTRUCTED THE CAPTAINS TO REMAIN AT CRISTOBAL FOR THE PRESENT. SINCE SEIZURE AND FINE WILL BE REIMBURSED TO THE OWNERS UNDER THE FISHERMAN'S PROTECTIVE ACT, THERE IS NO INCENTIVE FOR THEM TO PAY VOLUNTARILY A HIGH LICENSE FEE
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(WHICH IS NOT REIMBURSABLE BUT SIMPLY A BUSINESS EXPENSE). AS COST OF MAINTAINING THE SHIPS CONTINUES, OWNERS MIGHT BE INDUCED TO PAY REASONABLE LICENSE FEE TO REGAIN THE USE OF THEIR EQUIPMENT. IF PANAMA REFUSES TO DISCUSS A NORMAL LICENSE FEE OR SOMETHING ALONG THOSE LINES, THE OWNERS WILL BE TEMPTED TO RUN FOR IT OR SUBMIT QUIETLY TO ARREST, PAY THE FINE AND APPLY FOR REIMBURSEMENT FROM U.S.G. PROBLEMS WITH OTHER BOATS ALSO POSSIBLE. WE UNDERSTAND THAT SOME 19 U.S. AND OTHER FLAGTUNA BOATS ARE IN CANAL ZONE WATERS. ONE SENEGAL BOAT,NOT FISHING,WAS PICKED UP AND FINED FORBEING IN PANAMANIAN WATERS WITHOUT PERMISSION AND NOT FLYING THE PANAMANIAN FLAG.

12. MEDIA AND CONGRESSIONAL INTEREST. WHILE THERE HAS BEEN NO US MEDIA COVERAGE, PANAMA HAS RELEASED THE SUBSTANCE

OF ITS NOTE AND THE PANAMA PRESS HAS CARRIED THE STORY.
CBS QUERIED PAF TODAY AND WE EXPECT PRESS COVERAGE SHORTLY. THERE
HAVE BEEN SEVERAL
INQUIRIES FROM CONGRESS AND AMBASSADOR RODGWAY IS MEETING
AFTERNOON MAY 4 WITH REP. SULLIVAN AND OTHER MEMBERS OF

HOUSE MERCHANT MARINE AND FISHERIES COMMITTEE ON THIS
ISSUE.

13. IN LATEST DEVELOPMENT, WE HAVE JUST LEARNED THAT
TORRIJOS TOLD KALI AGENT MAY 3 THAT IF DOLS 100,000 LICENSE
FEE NOT PAID BY MAY 4, GUARDIA WOULD SEIZE BOAT AND CON-
FISCATE CATCH WHEN BOAT LEAVES CANAL ZONE WATERS. OWNER
DOES NOT WISH TO PAY FEE FOR WHICH HE WOULD NOT BE
REIMBURSED BUT APPEARS PREPARED TO PAY FINE, I.E., AGENT
IN PANAMA HAS CHECK FOR DOLS 100,000. COMPANY IS
CONCERNED, HOWEVER, ABOUT LONG TERM EFFECT PAYMENT OF FINE
WILL HAVE ON ITS OPERATIONS AND ON OTHER TUNA FISHERMEN.
POSSIBILITY OF DAMAGE TO VESSEL OR INJURY TO CREW DURING AN
ACTUAL SEIZURE IS ALSO A SERIOUS CONCERN TO COMPANY, AS
WELL AS TO DEPARTMENT. THIS INFORMATION MAY INDICATE THAT
WE HAVE BUT LITTLE TIME REMAINING IN WHICH TO RESOLVE THIS
PROBLEM IN AN ACCEPTABLE WAY WITH TORRIJOS.

14. OUR COURSE OF ACTION: POSSIBILITY OF INCIDENT OR LACK
THEREOF NOW RESTS PRIMARILY WITH BOATS AND OWNERS. WE ARE
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AT AN IMPASSE WITH GOP AND TORRIJOS IS STILL APPARENTLY
UNWILLING MEET WITH AMBASSADOR JORDEN TO DISCUSS BROADER
ISSUES. LAKAS HAS TRIED TO FACILITATE MEETING, BUT THERE
IS SOME DOUBT HE HAS ANY REAL INFLUENCE ON THIS ISSUE. AS
YOU KNOW FROM YOUR TELEPHONE DISCUSSIONS WITH STEVE LOW WE
ARE TAKING OTHER STEPS TO CONTACT TORRIJOS TO TRY TO
FACILITATE MEETING AND RESOLVE PROBLEM.

15. PLAN SEND YOU A BRIEF CABLE ABOUT COB TODAY REPORTING
ON DEVELOPMENTS. SISCO

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